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VIA ELECTRONIC FILING

Ms. Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Room TWB-204  
Washington, DC 20554

Re: Ex parte, CC Docket Nos. 02-33, 95-20, 98-10, Appropriate Framework for  
Broadband Access to the Internet Over Wireline Facilities

Dear Ms. Dortch,

Verizon's July 1, 2003 attempt to distort the state of competition for special access services and deflect attention away from its bottleneck control over facilities used to provide broadband services to large business customers cannot survive even a cursory examination of the facts. As detailed in AT&T's petition requesting that the Commission initiate a rulemaking to reform regulation of incumbent local exchange carrier rates for special access services, the excessive special access rates that incumbents are able to impose are the result of their continuing market power over loop and transport facilities needed by others to provide service to large business customers.

No amount of hand waving by Verizon can change the fact that ILECs own subscriber access line facilities connecting some 3-to-4 million commercial buildings nationwide. In contrast, AT&T currently provides service at approximately 186,000 commercial buildings, serving about 6,700 buildings with its own facilities and obtaining facilities from other CLECs at approximately 3,300 additional locations. This self-provisioning and access to alternative facilities providers amounts to roughly 5.7% of the approximately 186,000 commercial buildings at which AT&T currently provides service, and less than 0.4% of the 3-to-4 million commercial buildings nationwide. See AT&T Reply Comments, Reply Declaration of Lee L. Selwyn, RM No. 10593, January 23, 2003, at 16.

As a result, the Commission should view skeptically Verizon's claim that "[t]o compete in this market, Verizon and other ILECs must have the same flexibility to price

and package services that carriers such as AT&T currently enjoy.<sup>1</sup> Under this same reasoning ("flexibility" to meet competition in the market), Commission actions to deregulate the special access market have been used by the ILECs not to meet competition but to gouge their captive special access customers. Already exorbitant special access rates and revenues have soared since the Commission took action, with ILEC annual returns for these services as much or more than 50 percent.

Thus, recent history confirms what economics textbooks have predicted for years, market forces cannot be counted on to constrain pricing in a market where the incumbent maintains market power and competitors have few if any alternatives. The marketplace reality of the Commission's deregulatory efforts on behalf of special access should be a red flag of caution for similar efforts in the more general broadband services market.

Attached herewith is a copy of AT&T's special access petition for rulemaking and its reply comments in support of its petition. These comments provide facts confirming the excessive special access rates that ILECs are able to impose because of their continuing market power over loop and transport facilities.

Consistent with section 1.1206 of the Commission's rules, I am filing one electronic copy of this notice and request that you place it in the record of the above-referenced proceedings.

Sincerely,



#### ATTACHMENTS

cc: W. Maher  
C. Matthey  
M. Carey  
B. Olson  
C. Carpino  
D. Cooper  
T. Natoli

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<sup>1</sup> Letter to Marlene Dortch, Secretary-Federal Communications Commission from W. Scott Randolph, Director-Regulatory Affairs, Verizon, CC Docket No. 02-33, Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities, July 1, 2003, at 2.